
HOUSE BILL No. 1291

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-10-3-2.5; IC 16-41.

Synopsis: Mandatory testing of prisoners. Requires the department of correction (DOC) after June 30, 2002, to test new inmates for hepatitis C and the human immunodeficiency virus (HIV). Allows the DOC to require individuals committed before July 1, 2002, to submit to hepatitis C and HIV tests. Requires the DOC to report positive HIV test results to the state department of health. Provides that results of the hepatitis C and HIV tests are confidential unless otherwise provided by law. Requires the DOC to file an annual report regarding certain statistical information regarding hepatitis C and HIV tests with the legislative services agency. Provides that the consent of the individual tested is not required.

Effective: July 1, 2002.

Foley, Crawford

January 14, 2002, read first time and referred to Committee on Courts and Criminal Code.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1291

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 11-10-3-2.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]: **Sec. 2.5. (a) As used in this section, "confirmatory test"**
4 **means a laboratory test or a series of tests approved by the state**
5 **department of health and used in conjunction with a screening test**
6 **to confirm or refute the results of the screening test for the HIV**
7 **antigen or antibodies to the HIV.**
8 (b) As used in this section, "HIV" refers to the human
9 immunodeficiency virus.
10 (c) As used in this section, "screening test" means a laboratory
11 screening test or a series of tests approved by the state department
12 of health to determine the possible presence of the HIV antigen or
13 antibodies to the HIV.
14 (d) For an individual who is committed to the department after
15 June 30, 2002, the examination required under section 2(a) of this
16 chapter must include the following:
17 (1) A blood test for hepatitis C.



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(2) A screening test for the HIV antigen or antibodies to the HIV.

(e) If the screening test required under subsection (d)(2) indicates the presence of antibodies to the HIV, the department shall administer a confirmatory test to the individual.

(f) The department may require an individual who:

(1) was committed to the department before July 1, 2002; and

(2) is in the custody of the department after June 30, 2002; to undergo the tests required by subsection (d) and, if applicable, subsection (e).

(g) Except as otherwise provided in state or federal law, the results of a test administered under this section are confidential.

(h) Beginning September 1, 2003, the department shall file an annual report with the executive director of the legislative services agency containing statistical information on the number of individuals tested and the number of positive test results determined under this section.

SECTION 2. IC 16-41-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) ~~Each~~:

~~(1) licensed physician;~~

~~(2) hospital licensed under IC 16-21; and~~

~~(3) medical laboratory;~~

The following persons shall report to the state department each case of human immunodeficiency virus (HIV) infection, including each confirmed case of acquired immune deficiency syndrome (AIDS):

(1) A licensed physician.

(2) A hospital licensed under IC 16-21.

(3) A medical laboratory.

(4) The department of correction.

The report must comply with rules adopted by the state department.

(b) The records of the state department must indicate, if known:

(1) whether the individual had undergone any blood transfusions before being diagnosed as having AIDS or HIV infection;

(2) the place the transfusions took place;

(3) the blood center that furnished the blood; and

(4) any other known risk factors.

(c) A case report concerning HIV infection that does not involve a confirmed case of AIDS submitted to the state department under this section that involves an individual:

(1) enrolled in a formal research project for which a written study protocol has been filed with the state department;

(2) who is tested anonymously at a designated counseling or

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1 testing site; or
 2 (3) who is tested by a health care provider permitted by rule by
 3 the state department to use a number identifier code;
 4 may not include the name or other identifying characteristics of the
 5 individual tested.

6 SECTION 3. IC 16-41-6-1 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) Except as
 8 provided in subsection (b), a person may not perform a screening or
 9 confirmatory test for the antibody or antigen to the human
 10 immunodeficiency virus (HIV) without the consent of the individual to
 11 be tested or a representative as authorized under IC 16-36-1. A
 12 physician ordering the test or the physician's authorized representative
 13 shall document whether or not the individual has consented.

14 (b) The test for the antibody or antigen to HIV may be performed if
 15 one (1) of the following conditions exists:

16 (1) If ordered by a physician who has obtained a health care
 17 consent under IC 16-36-1 or an implied consent under emergency
 18 circumstances and the test is medically necessary to diagnose or
 19 treat the patient's condition.

20 (2) Under a court order based on clear and convincing evidence
 21 of a serious and present health threat to others posed by an
 22 individual. A hearing held under this subsection shall be held in
 23 camera at the request of the individual.

24 (3) If the test is done on blood collected or tested anonymously as
 25 part of an epidemiologic survey under IC 16-41-2-3 or
 26 IC 16-41-17-10(a)(5).

27 (4) The test is ordered under section 4 of this chapter.

28 **(5) The test is required or authorized under IC 11-10-3-2.5.**

29 (c) A court may order a person to undergo testing for HIV under
 30 IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

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